

---

## BRIAN DICKERSON: A juror questioning a witness? It's possible

**BY BRIAN DICKERSON**  
FREE PRESS COLUMNIST

*July 19, 2006*

Maybe you've dreamed of bringing an arrogant witness to his knees -- think of Tom Cruise breaking Jack Nicholson in "A Few Good Men" -- but never got around to graduating from law school.

Maybe you long to visit the scene of a notorious murder -- or the supermarket aisle where your neighbor slipped and broke her hip.

Or maybe, like a certain middle-aged newspaper columnist, you just remember things better when you write them down.

If you're a prospective juror in search of a more proactive, participatory courtroom experience, Michigan's highest court wants to help.

In an initiative that could empower jurors to query witnesses or request field trips to the scene of significant events, the state Supreme Court has proposed more than a dozen reforms that could dramatically alter the experience and impact of juries throughout Michigan.

The proposals range from minor changes, such as allowing jurors to consult their own notes during deliberations, to significant innovations, such as allowing judges to moderate debate-style panel discussions in which opposing expert witnesses could ask one another questions or answer those posed by jurors.

Chief Justice Clifford Taylor, who was appointed to the high court by then-Gov. John Engler in 1997, told me he asked Justice Stephen Markman, another Engler appointee, to develop a list of proposed rule changes after hearing colleagues at a conference of chief justices extol the benefits of a more participatory jury experience.

"Many of these changes, such as allowing jurors to discuss testimony among themselves during breaks in a trial, strike the ear of an American lawyer as quite suspect," Taylor conceded in a phone interview. But judges whose states have implemented similar rules report that they "work wonderfully."

Taylor says he and his colleagues will seek input from the lay public as well as lawyers and trial judges for six months before deciding whether to implement any of the proposed changes in Michigan. But "if they enhance the truth-seeking function," he adds, "we should look hard at them."

Critics often complain that the state Supreme Court's incumbent Republican majority has made it too difficult for ordinary citizens to bring their cases before a jury, and some plaintiffs' lawyers I spoke to Tuesday are suspicious of the court's interest in juror empowerment.

But state Supreme Court spokesperson Marcia McBrien says justices are only looking for ways to make jury service a less-daunting obligation.

"We don't ask people to go into a physics lab and conduct an experiment without knowing anything about physics or being allowed to take notes or ask any questions," McBrien notes. "Ought we not be trying to make this process as easy as we can?"

McBrien says justices are particularly interested in hearing what Michigan residents who've served on juries think of the proposed changes, which can be viewed at

[www.courts.michigan.gov/supremecourt/Resources/Administrative/2005-19.pdf](http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2005-19.pdf).

Contact **BRIAN DICKERSON** at 248-351-3697 or [bdickerson@freepress.com](mailto:bdickerson@freepress.com).

**Copyright © 2006 Detroit Free Press Inc.**